PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re application of	Docket No: Q76973
Gerard VERGNAUD, et al.	
Appln. No.: 10/647,255	Group Art Unit: 2445
Confirmation No.: 3044	Examiner: Joshua JOO
Filed: August 26, 2003	

For: A METHOD AND A SERVER FOR ALLOCATING LOCAL AREA NETWORK RESOURCES TO A TERMINAL ACCORDING TO THE TYPE OF TERMINAL

REPLY BRIEF PURSUANT TO 37 C.F.R. § 41.41

MAIL STOP APPEAL BRIEF - PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In accordance with the provisions of 37 C.F.R. § 41.41, Appellant respectfully submits this Reply Brief in response to the Examiner's Answer dated August 18, 2011. Entry of this Reply Brief is respectfully requested.

Table of Contents

STATUS OF CLAIMS

Claims 1-9, 11-15, 17-35, 37-41, 43, and 44 are all the claims pending in the application.

Claims 1-9, 11-15, 17-35, 37-41, 43, and 44 have been finally rejected and are the subject of this appeal.

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The grounds of rejection to be reviewed, including the statute applied, the claims subject to each rejection and the references relied upon by the Examiner are as follows:

1. Claims 1-9, 11-14, 17, 21-35, 37-40 and 43 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Hagen (US Patent Application Publication No. 2002/0075844), in view of Yamaguchi, (U.S. Patent Application Publication No. 2002/0178365) and Brewer et al. (US Patent No. 7,002,980).

2. Claims 15, 18 and 41 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Hagen, in view of Yamaguchi, Brewer and Immonen et al. (US Patent Application Publication No. 2002/0132611).

3. Claims 19 and 20 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Hagen, in view of Yamaguchi, Brewer and Sisodia et al. (US Patent Application Publication No. 2003/0165128).

4. Claim 44 is rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Hagen, in view of Yamaguchi, Brewer, and Bichot et al. (US Patent Application Publication No. 2003/0214929 (Bichot hereinafter)).

ARGUMENT

A. Neither Hagen, Yamaguchi, nor Brewer, alone or in combination, renders the claimed invention, as recited in claims 1-9, 11-14, 17, 21-35, 37-40, and 43, unpatentable under 35 U.S.C. § 103(a).

Claims 1-9, 11-14, 17, 21-35, 37-40, and 43 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Hagen, in view of Yamaguchi, and further in view of Brewer. Appellants submit the following in traversal.

Claim 1

With respect to claim 1, Appellants previously argued that the applied references, alone or in combination, fail to disclose or suggest at least "wherein said control module allocates at least two priority levels to the terminals for said allocation of resources of the local area network according to whether the terminals are classified in said first group or said second group and automatically modifies an allocated priority level as a function of the available resources of said local area network." The Examiner applies Brewer to allegedly satisfy the above-quoted feature. *See pages 11-12 of Appeal Brief dated April 18, 2011.*

In response, the Examiner makes several assertions on pages 18-21 of the Examiner's Answer dated August 18, 2011.

Appellants maintain the previously submitted arguments and further emphasize what the Examiner has already acknowledged and that is that Brewer teaches adding bandwidth to previously allocated quality of service levels. Adding bandwidth to a quality service level does not change or modify the priority service level, but simply adds bandwidth to the pipeline of the data that is being transmitted in accordance with said priority level. For example, in Brewer, if data is being transmitted via a quality of service level that initially transmits at a rate of 33 Kb

per second and the speed of that transmission is increased because of increased bandwidth, the priority level of that transmission does not change, but simply the transmission speed changes; the transmission speed is not necessarily tied to the priority level. Very differently, claim 1 requires that an allocated priority level is automatically modified as a function of available resources of the local area network. That is, data that is initially being transmitted at a priority level of, for example, level 1, could be automatically modified to be transmitted at a different priority level, for example, level 2, according to the recitation of claim 1. Thus, modifying the priority of data that is being transmitted is very different from simply increasing or decreasing the speed at which the data is being transmitted. That is, it does not necessarily follow that changing or modifying a bandwidth at a particular level would change that priority level to a different priority level. Priority levels can relate to various things but are not necessarily tied to bandwidth. See, for example, page 4, lines 23-28 of the originally filed specification, indicating that priority levels can equally apply to rights of access to local or remote databases and other variables that do not include bandwidth. This passage from the specification further demonstrates that change in bandwidth is not necessarily tied to the modification of a priority level.

In view of the above, Appellants maintain that claim 1 is patentably distinguishable over the applied references.

For reasons analogous to those submitted above with respect to claim 1, Appellants maintain that independent claim 28 is also patentable.

Claims 2-9, 11-14, 17, 21-27, 29-35, 37-40 and 43, which depend from claims 1 or 28, are patentable at least by virtue of their dependencies.

Claims 15, 18, and 41 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Hagen, Yamaguchi, and Brewer, and further in view of Immonen. Appellants submit the following in traversal.

Immonen does not make up for the above noted deficiencies of Hagen, Brewer and Yamaguchi with respect to independent claims 1 and 8. Accordingly, claims 15, 18, and 41, which depend from claims 1 or 28, are patentable at least by virtue of their dependencies.

Claims 19 and 20 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Hagen, Yamaguchi, Brewer, in view of Sisodia. Appellants submit the following in traversal.

Sisodia does not make up for the above noted deficiencies of Hagen, Yamaguchi, and Brewer with respect to independent claim 1. Accordingly, claims 19 and 20, which depend from claim 1, are patentable at least by virtue of their dependencies.

Claim 44 is rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Hagen, Yamaguchi, Brewer, in view of Bichot. Appellants submit the following in traversal.

Bichot does not make up for the above noted deficiencies of Hagen, Yamaguchi, and Brewer with respect to independent claim 28. Accordingly, claim 44, which indirectly depends from claim 28, is patentable at least by virtue of its dependency.

CONCLUSION

For the above reasons as well as the reasons set forth in Appeal Brief, Appellant respectfully requests that the Board reverse the Examiner's rejections of all claims on Appeal. An early and favorable decision on the merits of this Appeal is respectfully requested.

Respectfully submitted,

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Date: October 18, 2011